IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13448 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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N K PARMAR

Versus

CIVIL JUDGE (S. D.)

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Appearance:

MS SUDHA R GANGWAR for Petitioner

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CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 20/01/2001

ORAL JUDGEMENT

1. Heard Ms.Sudha R Gangwar on admission of this petition.

2. In this petition, the petitioner has challenged the transfer order dated 20-12-2000 passed by the District Judge, Amreli, transferring the petitioner to

the Court of Civil Judge (J.D.) at Kodinar. This order has been challenged on two grounds. Firstly, on the ground of malafide and secondly on the ground that the petitioner being the Secretary of Amreli District Judicial Department Class-III Employees' Association, whose term expires in July, 2001, he can not be transferred in view of Government Resolution No.DRF-1087-356-GR dated 25-10-1998 till the term of the petitioner's expires.

3. Allegation of malafide contained in Para-4.5 of the petition is vague and the learned counsel for the petitioner does not press this allegation.

4. Para-35.3.2. of the Government Resolution has, however, been pressed in service, which provides that the transfer of the President, Vice President, Secretary and Treasurer, out of the office bearers of the Government approved Unions of the Government employees (other than District Level) in normal circumstances, be avoided till they complete their tenure of post. Their benefit may also be extended to the District Level Unions of the Revenue Department as well as to the District Level Unions of the Judicial Department. On the basis of this resolution, it has been urged that the petitioner could not be transferred before July 2001. This resolution, however, provides that in normal circumstances, President, Secretary and Treasurer of such Unions may not be transferred till they complete their tenure of post, and such transfer be avoided in normal circumstances. However, under what circumstances the petitioner was transferred, is not forthcoming on record because, the order dated 20-12-2000 of the District Judge, Amreli has not been filed with the writ petition. Annexure-'A', on the other hand, is a communication from the Civil Judge (S.D.), Amreli, wherein, the information is that, in compliance of the District Judge's order dated 20-12-2000, the petitioner has been transferred to the Court of the Civil Judge (J.D.), Kodinar. Consequently, it can not be said that, on what grounds the petitioner is transferred. What the Government resolution says is that, in normal circumstances such transfer be avoided till completion of tenure of the office bearer. However, in the absence of the actual order of the District Judge, it can not be said that the transfer was in normal circumstances or under abnormal circumstances. Consequently, I do not find any merit in this petition, which is summarily rejected.

January 20, 2001. [ D.C. Srivastava, J.]

/sakkaf